

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES

Before the Commissioner of Financial and Insurance Services

In the matter of

XXXXX

Petitioner

File No. 86345-001

v

Humana Insurance Company
Respondent

**Issued and entered
this 17th day of December 2007
by Ken Ross
Acting Commissioner**

ORDER

**I
PROCEDURAL BACKGROUND**

On November 15, 2007, XXXXX filed a request for external review with the Commissioner of Financial and Insurance Services on behalf of his minor son XXXXX (Petitioner) under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* On November 19, 2007, after a preliminary review of the material submitted, the Commissioner accepted the request.

The Commissioner notified Humana Insurance Company of the external review and requested the information used in making its adverse determination. The Commissioner received the information from Humana on November 19, 2007.

The issue here can be decided by a review and analysis of the Petitioner's health care policy. The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). It is not necessary to get a medical opinion from an independent review organization.

II FACTUAL BACKGROUND

The Petitioner is covered by Humana as an eligible dependent under a small group plan. On July 4, 2007, he sustained an injury that required suturing.

The Petitioner received treatment in the emergency room of XXXXX. Humana applied its discounted amount for the covered services to the Petitioner's \$1,000.00 annual deductible. After the Petitioner appealed, Humana reviewed the claim but upheld its decision and sent the Petitioner a final adverse determination dated November 7, 2007.

III ISSUE

Did Humana correctly process the Petitioner's claims for the emergency room services provided on July 4, 2007?

IV ANALYSIS

Petitioner's Argument

On July 4, 2007, the Petitioner fell and required stitches to close the wound that resulted from his fall. He sought treatment in the emergency room at XXXXX.

Under the terms of the Petitioner's coverage, treatment in his physician's office, or at the urgent care facility would have been covered with a \$35.00 copayment. The Petitioner's father says his son went to the emergency room only because his physician's office and the urgent care facility were closed for the holiday -- he had no other choice. Under the circumstances, the Petitioner wants the deductible waived and only the \$100.00 copayment applied. He does not think he should be responsible for any additional charges.

Humana Insurance Company's Argument

In its November 7, 2007, final adverse determination, Humana told the Petitioner that

Emergency room services are first subject to the \$1,000.00 deductible. At the time the claim was processed the network deductible was not met. Therefore, the discounted amount was

applied to the network deductible.

Humana explained that the terms of the Petitioner's coverage require him to pay the individual network deductible of \$1,000.00 for emergency room services before Humana begins to pay its share of the cost. That requirement is found in following provision in the policy's Schedule of Benefits (page 18):

Emergency Services

Hospital emergency room services

<i>Network hospital</i>	100% benefit payable after <i>network provider deductible</i> and \$100.00 <i>copayment</i> per visit. <i>Copayment</i> waived if admitted.
<i>Non-network hospital</i>	100% benefit payable after <i>network provider deductible</i> and \$100.00 <i>copayment</i> per visit. <i>Copayment</i> waived if admitted.

Humana notes that emergency room benefits are offered in the Petitioner's plan because it understands there are situations that occur when treatment in a doctor's office or at an urgent care facility is not possible. However, Humana says that the hospital emergency room services are paid only after the network provider deductible has been satisfied, and that the claims for the Petitioner's emergency room services were correctly processed.

Commissioner's Review

The Commissioner has carefully reviewed the arguments of the parties as well as the documents submitted and the Petitioner's policy. The Commissioner notes that the issue here is solely whether the network deductible should be applied; there is no dispute over the amount applied.

In deciding this external review, the Commissioner is bound by the terms and conditions of the policy. The Commissioner finds that Humana correctly processed the claims for emergency room services on July 4, 2007. It is unfortunate that the Petitioner had to receive services in the

emergency room because his physician's office or an urgent care facility was not open. Nevertheless, as the policy advises, "some policies may require [the Petitioner] to pay a deductible before we begin to share the cost of most medical services." The policy is clear that hospital emergency room services are payable at 100% only after the \$1,000.00 network provider deductible is satisfied. The Commissioner finds nothing in the policy that requires Humana to waive the deductible if care was not available in a physician's office or from an urgent care facility.

There is no dispute that the Petitioner had not met his \$1,000.00 deductible at the time the emergency room services were rendered. Therefore, those emergency room charges were correctly applied to the deductible.

The Commissioner finds that Humana correctly processed the Petitioner's emergency room claims.

V ORDER

The Commissioner upholds Humana Insurance Company's adverse determination of November 7, 2007.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the Circuit Court for the county where the covered person resides or in the Circuit Court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.